

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte THOMAS FUHRMANN, ANNELL ORTSCHEID
DIRK UMBACH, RICKY WILLIAM BARNETT
TERENCE JOHNSON, MARK ROBERT MASON
BRUCE SAMUELS and TONY HORNE

MAILED

JUL 28 2005

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Application No. 09/125,700

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on June 21, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matters requiring attention prior to docketing are identified below:

In response to the Examiner's Answer mailed June 30, 2004, appellants filed a Reply Brief on September 3, 2004. The examiner mailed an action on January 4, 2005 which he designated as a Supplemental Answer responding to appellant's Reply Brief.

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37 CFR § 41.43 states in part:

(a)(1) After receipt of a reply brief in compliance with § 41.41, the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or **may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.**

As noted above, although a Supplemental Examiner's Answers is permitted in a response to a reply brief, it must be approved by persons authorized to grant such approval. Currently, such authorized persons are the Technology Center Director(s) or the Director's designee. This response does not contain the proper authorization required.

Accordingly, it is

ORDERED that the application is being returned to the Examiner to

- a) resubmit the Examiner's Supplemental Answer action with proper approval, or
- b) submit a Reply Brief Noted without any significant response to appellant's reply brief therein, and

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(c) for such further action as may be appropriate.

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